



November 8, 2010

Environmental Protection Agency
Water Docket
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Docket ID #: EPA-R03-OW-2010-0736

We write today on behalf of our members and producers to file our comments regarding Environmental Protection Agency's (EPA) development of the Draft Chesapeake Bay Total Maximum Daily Load (TMDL) released on September 24, 2010.

Virginia Grain Producers Association (VGPA) represents Virginia's corn and small grains growers and approximately 1 million acres of cropland in the Commonwealth. The majority of our producer members are part of the non-point agricultural source sector and will be greatly impacted by the implementation of the Draft TMDL. In these comments, we address four points pertinent to the grains industry: accurate data, research, economic impact and authority.

Our members have expressed for some time their concern about the accuracy of information used in the Chesapeake Bay Model calculations. While many of them participate in voluntary, conservation programs, many of their best management practices (BMP) do not receive credit in the Chesapeake Bay Model. A survey released this year by Virginia Cooperative Extension shows that 90% of cropland acres in Eastern Virginia are farmed "no-till" while state records reflect only 15% of those acres are enrolled in a program and consequently, reported to the Chesapeake Bay Model. **Consequently, where are EPA's numbers coming from that predicate the TMDL?** These acres go unaccounted for reasons such as a cost-share program contract expires, a producer is unable to commit rented land to a long-term contract, a local district did not have funds to enroll all the producer's acres, or, the producer chose not to take money for a practice he was already implementing. However, under each of these circumstances, BMPs are implemented and on-going on that farm. EPA has admitted the model is flawed and plans to make changes; however, the TMDL regulations move forward. Farmers must have confidence that EPA works with all the information before they implement additional, costly practices on their fields which affect their families, their productivity and their livelihood. **Our members request that EPA collect actual on-farm data and ensure they know all practices on the ground before moving forward with any further regulations.** This will not only help correct target loadings but will ultimately, help ensure BMPs used in the model actually will achieve water quality goals.

Agriculture is improving water quality through voluntary and incentive programs now. A recent USDA study (Conservation Effects Assessment Project) showed from 2003 to 2006, cropland reduced "edge of field" sediment by 64%, nitrogen by 36% and phosphorus by 43%. However, the



impact to the Bay was only a 14% reduction in sediment, 15% in nitrogen and 15% in phosphorus. This presents three questions for us, “What is going on between the farm field? Why are farmers responsible for Bay impact beyond their fields? Will costly, additional mandates for agriculture really achieve EPA’s water quality goals in the Bay?” In Virginia, agriculture has already met 52% of our nitrogen goals and 50% of phosphorus and sediment goals; according to calculations of those acres implemented through voluntary, incentive-based programs. We wonder if the goals set by EPA are achievable with today’s population and need for food, fiber, feed and fuel. **We believe that before millions more dollars are spent that EPA produce proof that the TMDL standards are achievable without economic disaster to the region. We also request proof that the current BMPs used in “Scenario Builder” and other model calculations actually will deliver significant water quality improvement in today’s environment.**

Without assurance from EPA that goals can be met with the Bay region’s economy intact, it is irresponsible for states and federal leaders to commit millions of taxpayer dollars towards the Bay clean-up effort. Virginia’s agriculture and forestry contribute \$79 Billion to the Commonwealth annually making it by far the number one economic driver. This sector must be protected and supported to thrive and grow. Water quality goals cannot be achieved without agricultural acres. By mandating restrictions, as EPA has in their “backstop” measures, EPA is hurting the industry that has and will continue to help them reach clean-up goals through voluntary measures. For example, a typical grain farm nutrient management plan (NMP) costs between \$3 and \$5 per acre. For a 2000 acre grain farm that is potentially \$10,000 for a plan that must be revised each year without any assurance that NMPs actually achieve improved water quality; especially considering farmers often apply less nutrients than called for in their NMP. The state of Maryland has required NMPs for some time showing no water quality improvements over states without a NMP requirement. Mandates do not achieve water quality but, willing participants do. Farmers work to mitigate any soil loss, put out as little fertilizer as they can and apply as few crop protectants as possible because each of these issues costs the farmer money and profits. EPA needs to allow our Virginia farmers to continue their already significant progress without additional regulations or mandates. **We request an economic analysis from EPA of full Bay clean-up efforts including a breakdown of cost to each source sector.**

Virginia has put forth a largely workable and feasible Watershed Implementation Plan (WIP) that EPA does not have the authority to override through “backstop” measures. According to the Clean Water Act, EPA can only act if the state fails to do so and Virginia’s current draft WIP and various successful programs cannot be considered failure to act. In fact, EPA has no authority to regulate non-point sources. Further, Congress has not provided authority to EPA to achieve the goals set in Section 117 of the Clean Water Act. Regulation and enforcement is directly in the hands of each signatory. **We request that EPA present the federal legislation that grants it the authority to override state actions and impose additional cost and regulations on that state’s residents, land and watersheds.**



Virginia's grain farmers work each day to make their operations more efficient and their practices more effective. Each state inside the Bay region is unique just as each field on our producers' farms has different needs. Our industry is the backbone of Virginia's economy and without farm profitability, the entire Commonwealth and Bay region will suffer. EPA must not attempt to mandate "one size fits all" regulations and expect water quality goals to be met. On behalf of our members, VGPA requests that EPA produce proof of BMP impact to the Bay, provide a full economic analysis of the TMDL standards, provide the legislation that outlines EPA authority over the states and most importantly, provide for public review the full and complete data used to create the TMDL standards.

We appreciate the opportunity to comment on the Draft TMDL and its impact on our industry. We welcome any questions or requests for further information.

Sincerely,

A handwritten signature in black ink that reads "Molly P. Pugh".

Molly P. Pugh
Executive Director

A handwritten signature in black ink that reads "Eugene C. Longest".

Eugene C. Longest
President